

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GERARDO SANCHEZ-LOPEZ,

Defendant.

8:15CR109

ORDER

This matter is before the court on the defendant's request a "template of the required paperwork" and a "courtesy copy" of his first and second filed §2255 motions. **See** Filing No. 50. The defendant states he intends to file a second or successive §2255 motion in compliance with federal statutes in light of a newly clarified amendment. *Id.* The defendant also states he neglected to keep copies of his earlier filed motions, which he would like for his records. The defendant pleaded guilty and was sentenced, after which the court entered judgment on December 8, 2015. **See** Filing No. 38. On May 12, 2016, and on July 25, 2016, the defendant filed motions to vacate his sentence pursuant to 28 U.S.C. §2255. **See** Filing Nos. 42 and 47. On June 23, 2016, the defendant's initial motion was summarily denied upon initial review. **See** Filing No. 45. On August 11, 2016, the defendant's second motion was denied for failure to obtain the required certification from the Eighth Circuit Court of Appeals for a second such motion. **See** Filing No. 48.

Other than this motion for a template and copies, the defendant has no motions or open cases pending before this court, and the defendant makes no showing as to why he needs the copies. Accordingly, without a pending appeal or some showing of need for the documents, the court is not inclined to order copies of documents made at government expense.

The defendant does not have the right to receive copies of documents at government expense, even if he has leave to proceed in forma pauperis. **See** 28 U.S.C. § 1915; *Lewis v. Precision Optics, Inc.*, 612 F.2d 1074, 1075 (8th Cir. 1980). An indigent defendant bringing a postconviction proceeding under 28 U.S.C. § 2255 may obtain a transcript without expense, if the court determines the motion is not

frivolous and the transcript is necessary to decide the issue presented by the motion. **See** 28 U.S.C. § 753(f); **see also** *Chapman v. United States*, 55 F.3d 390, 390-91 (8th Cir. 1995) (stating any request for a free transcript prior to the filing of a 28 U.S.C. § 2255 motion is premature).

Nevertheless, the defendant may pay for the copies he requested, 19 and 20 pages, respectively, for his previous two motions, at the established rate of 50¢ per page. Additionally, the defendant seeks a template for a motion for leave to file a second or successive § 2255 motion. This court does not have templates or draft forms for such motions. Under these circumstances,

IT IS ORDERED:

The defendant's request for copies (Filing No. 50) is denied.

Dated this 7th day of September, 2016.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge